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10/049,546	06/05/2003	Ernst Kraenzler	1969	7609

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EXAMINER

CHUKWURAH, NATHANIEL C

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,546

Applicant(s)

KRAENZLER ET AL.

Examiner

Nathaniel C. Chukwurah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2003.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 16-28 is/are rejected.
 7) ☒ Claim(s) 29 and 30 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 05 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 2/13/02; 6/5/03.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 29 and 30 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 29 and 30 are method claims of which claim 29 is dependent upon apparatus claim 16.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16, the phrase “ a power tool with at least one handle that comprises at least one grip part that is firmly connect to a mounting part” in lines 1-3 is confusing and unclear as to what is being claimed. What comprises at least one grip part that is firmly connected to a mounting part, the power tool or the handle?

Claim 16, line 14: “which” is indefinite because it is unclear as to what element or part applicant is referring.

In claim 22, the word “and/or” in line 4 is unclear as to what is being claimed.

Is the retaining element supported in movable fashion relative to the mounting part and grip part or relative to the mounting part alone?

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In claim 27, the word “and/or” in line 4 is unclear as to what is being claimed.

Is the retaining element supported in movable fashion relative to the mounting part and grip part or relative to the mounting part alone?

In claim 28, the word “and/or” in line 4 is unclear as to what is being claimed.

Is the retaining element supported in movable fashion relative to the mounting part and grip part or relative to the mounting part alone?

The scope of claim 27 is unclear since no structure is claimed, and the phrase “ a normal position is determined by means of the retaining element” in lines 2-3 is not clear whether applicant is invoking 112 6th paragraph.

In claim 28, the phrase “at least closely before a seating surface with mounting element” in lines 2-3 is confusing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-17, 19-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Radle et al. (US 5,697,456).

With regard to claim 16, Radle et al. discloses a power tool (10) comprising: a housing (18), a handle (40) having one grip part (handle portion) connected to a mounting part (62) through at least one elastic, vibration-damping element (96, 98, 100), the grip part is attached to

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the housing (18) and secured by the elastic element (100) via retaining elements (88, 94, 100, 104).

With regard to claim 17, Radle et al. shows a retaining element (100) formed by a flexible component (100 elastomeric bellows).

With regard to claim 19, Radle et al. shows a retaining element (94) located in the elastic element (100 elastomeric bellows) along a center line.

With regard to claim 20, Radle et al. shows a retaining element (104) is capable of being subjected to tensile stresses and the elastic element (96) is capable of being subjected to compressive stresses.

With regard to claim 21, Radle et al. shows a retaining element (100) formed by a band which encloses the elastic element (96, 98).

With regard to claims 22 and 23, the retaining element (88) is formed by a rigid component that is rigidly supported and capable of moving relative to the mounting part (62) and grip part (handle portion).

With regard to claim 24, the retaining element (88) firmly connected to a fastening screw (94) located in mounting part (62).

With regard to claim 25, the retaining element formed by a fastening screw (94).

With regard to claim 27, the displacement of the elastic element (96) is determined by the retaining element (88) in sliding direction.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Wolf et al. (US 6,412,180).

With regard to claim 16, Wolf et al. discloses a power tool with a handle (2) which comprises one grip part (8 handle portion) firmly connected to a mounting part (35 fitting) via one vibration-damping element (4) and via the grip part affixable to a housing (6); the connection between the grip part (handle portion) and the mounting part (35 fitting) is secured by the elastic element (4) via movable retaining (31 col. 3, line 66).

With regard to claims 17 and 18, the retaining element (31 cable) is flexible and formed by a rope (cable).

With regard to claim 19, the retaining element (31) is located in the elastic element (4) along a center line (24).

With regard to claim 20, retaining element (31) is capable of being subjected to tensile stresses and the elastic element (4) is capable of being subjected to compressive stresses.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raddle et al. in view of Wolf et al. (US 6,412,180).

With regard to claim 18, Radle et al. lacks a retaining element formed by a rope. However, Wolf et al. teaches a steel cable retaining element (31) for securing the handle to the housing. Therefore, it would have been obvious to one of ordinary skill in the art at time of the invention to provide the power tool of Radle et al. with a steel cable retaining element as taught by Wolf et al. in order to prevent axial separation of the tool handle.

With regard to claim 26, Radle et al. lacks the connection of the retaining element to grip part and mounting part via the elastic element. However, Wolf et al. teaches such connection via an elastic element (4) (see fig. 2). Therefore, it would have been obvious to one of ordinary skill in the art at time of the invention to provide the power tool of Radle et al. with the connection of the retaining element to grip part and mounting part via the vibration-damper as taught by Wolf et al. in order to prevent transferring vibrations from the motor to the handle unit (col. 2, lines 18-19).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raddle et al.

With regard to claim 28, Radle et al. lacks elastic element comprising non-circular cross-section area, such feature is an engineering design choice because it would have been obvious to

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one of ordinary skill in the art at the time of the invention to provide the elastic element of Radle et al. with non-circular cross-sectional area since it provides no new and unexpected results.

Conclusion

Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

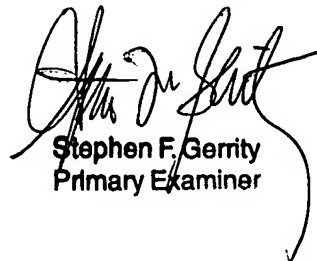
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

July 20, 2005.


Stephen F. Gerrity
Primary Examiner